AO No. 419 of 2003
Hon. P.C. Verma, A.C.J.
Hon. Rajesh Tandon, J.

Heard Ms. Jyotsna and Shri A.K. Yashodas, learned counsel for the appellant.

This is an appeal filed against the order dated 28.11.203 passed by the Judge, Family Court refusing the permission to sale the property of the minor namely Ankur under the guardianship of Bua. She was appointed guardian by the Court under the Guardians Act and Wards Act. Which is on record as Annexure III. The permission was sought through the guardian appointed by the Court. The Judge, Family Court refused the permission on the ground that the mother was not arrayed as party in the application for permission. It was argued before the learned Judge, Family Court that the mother has re-married, therefore, she has lost guardianship. This argument was not accepted by the Judge, Family Court. This is the sole contention in this appeal and the learned counsel for the appellant submitted that since the mother has re-married, therefore, she has lost right of guardianship. We find force in the contention of the learned counsel for the appellant.

Therefore, we allow the appeal and set aside the order of the Judge, Family Court and allow the application of the appellant seeking permission for sale of the property. Sale consideration shall be deposited in a fixed deposit and only interest shall be permitted to be withdrawn for the maintenance of the child. Permission is granted with this condition. that If the property is purchased in the minor's name, that shall be purchased within a month. However, sale consideration shall be deposited for one month after receipt of the same, an account which will be run under the control of the Judge, Family Court, shall be opened for payment of sale consideration of the property which is proposed to be purchased in the name of the minor.

Appeal is allowed accordingly.

(R.T., J.) (P.C.V, A.C.J.)

Dt. 23.12.2003.
G/H